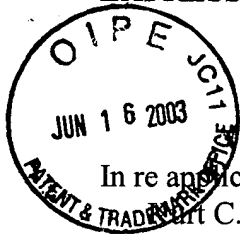


EXPRESS MAIL NO: EL615212498US



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:
C. Gish, *et al.*

Appl. No. 09/702,216

Filed: October 30, 2000

For: NOVEL METHODS OF
DIAGNOSING BREAST CANCER,
COMPOSITIONS, AND METHODS
OF SCREENING FOR BREAST
CANCER MODULATORS

Art Unit: 1634

Examiner: Diana B. Johannsen

Attorney Docket: 05882.0129.CPUS03

Confirmation No.: 9459

RESPONSE TO NOTICE OF NON-RESPONSIVE AMENDMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is in response to the Notice of Non-Responsive Amendment Dated **May 16, 2003**, and is submitted on or before the due date of **June 16, 2003**.

Applicants are submitting as follows a corrected clean version of the amended claims, which replaces the incorrect clean version submitted in the Amendment dated January 21, 2003.

THE AMENDMENT

In the Claims

In order to expedite prosecution, please amend Claims 32, 33, 35 and 38 without prejudice, as indicated below. Applicants specifically retain the right to prosecute the full scope of the claims in a later application. Also, please add Claim 39.

32. (Amended) A method for determining the presence or absence of a breast cancer cell in a patient, the method comprising:

(i) detecting a nucleic acid encoding an amino acid sequence at least 90% identical to SEQ ID NO:2 in a sample from the patient, and

(ii) comparing expression levels of the nucleic acid in the sample from the patient to expression levels of the nucleic acid in a normal tissue sample;

wherein an increase in expression of the nucleic acid in the sample from the patient indicates the presence of a breast cancer cell in the patient.

33. (Amended) The method of claim 32, wherein the sample from the patient comprises isolated nucleic acids.

35. (Amended) The method of claim 32, wherein the sample from the patient is breast tissue.

38. (Amended) The method of claim 32, wherein said detecting step is carried out by utilizing a biochip comprising a sequence at least 90% identical to SEQ ID NO:1.

39. (New) The method of claim 32, wherein the nucleic acid is at least 95% identical to SEQ ID NO:1.

REMARKS

Claim 38 is corrected to recite 90%, which is consistent with the Marked-UP Version submitted on January 21, 2003.